

# Senate File 422

SENATE FILE \_\_\_\_\_  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1138)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to criminal sentencing and procedure by modifying  
2 the penalties for certain offenses related to controlled  
3 substances by permitting the reopening of a sentence that  
4 requires a maximum accumulation of earned time credits of  
5 fifteen percent of the total term of confinement and by  
6 changing the parole and work release eligibility of a person  
7 serving such a sentence, repealing certain determinate  
8 sentences, and providing a penalty.  
9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
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1 1 Section 1. Section 124.401, subsection 1, paragraph a,  
1 2 subparagraph (2), unnumbered paragraph 1, Code 2003, is  
1 3 amended to read as follows:  
1 4 More than five ~~kilograms~~ hundred grams of a mixture or  
1 5 substance containing a detectable amount of any of the  
1 6 following:  
1 7 Sec. 2. Section 124.401, subsection 1, paragraph a,  
1 8 subparagraph (2), subparagraph subdivisions (d) and (e), Code  
1 9 2003, are amended by striking the subparagraph subdivisions.  
1 10 Sec. 3. Section 124.401, subsection 1, paragraph a, Code  
1 11 2003, is amended by adding the following new subparagraph:  
1 12 NEW SUBPARAGRAPH. (7) More than five kilograms of a  
1 13 mixture or substance containing a detectable amount of any of  
1 14 the following:  
1 15 (a) Methamphetamine, its salts, isomers, or salts of  
1 16 isomers.  
1 17 (b) Amphetamine, its salts, isomers, and salts of isomers.  
1 18 (c) Any compound, mixture, or preparation which contains  
1 19 any quantity of any of the substances referred to in  
1 20 subparagraph subdivisions (a) and (b).  
1 21 Sec. 4. Section 124.401, subsection 1, paragraph b,  
1 22 subparagraph (2), unnumbered paragraph 1, Code 2003, is  
1 23 amended to read as follows:  
1 24 More than ~~five~~ one hundred grams but not more than five  
1 25 ~~kilograms~~ hundred grams of any of the following:  
1 26 Sec. 5. Section 124.401, subsection 1, paragraph b,  
1 27 subparagraph (3), Code 2003, is amended to read as follows:  
1 28 (3) More than ~~five~~ ten grams but not more than fifty grams  
1 29 of a mixture or substance described in subparagraph (2) which  
1 30 contains cocaine base.  
1 31 Sec. 6. Section 124.401, subsection 1, paragraph c,  
1 32 subparagraph (2), unnumbered paragraph 1, Code 2003, is  
1 33 amended to read as follows:  
1 34 ~~Five~~ One hundred grams or less of any of the following:  
1 35 Sec. 7. Section 124.401, subsection 1, paragraph c,  
2 1 subparagraph (3), Code 2003, is amended to read as follows:  
2 2 (3) ~~Five~~ Ten grams or less of a mixture or substance  
2 3 described in subparagraph (2) which contains cocaine base.  
2 4 Sec. 8. Section 901.5, subsection 13, Code 2003, is  
2 5 amended by striking the subsection.  
2 6 Sec. 9. NEW SECTION. 901.5B REOPENING OF SENTENCE FOR  
2 7 PERSONS SERVING SENTENCE SUBJECT TO MAXIMUM ACCUMULATION OF  
2 8 EARNED TIME OF FIFTEEN PERCENT.  
2 9 1. A defendant serving a sentence under section 902.12  
2 10 prior to the effective date of this Act, who is sentenced by  
2 11 the court to the custody of the director of the department of  
2 12 corrections, may have the judgment and sentence reopened for  
2 13 resentencing if all of the following apply:  
2 14 a. The county attorney from the county which prosecuted  
2 15 the defendant files a motion in the sentencing court to reopen  
2 16 the sentence of the defendant. The county attorney shall

2 17 notify the victim pursuant to section 915.13 of the filing of  
2 18 the motion. The motion shall specify that the county attorney  
2 19 has informed the victim about the filing of the motion, and  
2 20 that the victim has thirty days from the date of the filing of  
2 21 the motion to file a written objection with the court.  
2 22 b. No written objection is filed or if a written objection  
2 23 is filed, and upon hearing the court grants the motion.  
2 24 2. Upon the court granting the motion to reopen the  
2 25 sentence, the court shall order that the defendant be eligible  
2 26 for consideration of parole or work release in the same manner  
2 27 as a defendant serving a sentence under section 902.12.  
2 28 3. For purposes of calculating earned time under section  
2 29 903A.2, the sentencing date for a defendant whose sentence has  
2 30 been reopened under this section shall be the date of the  
2 31 original sentencing order.  
2 32 4. The filing of a motion or reopening of a sentence under  
2 33 this section shall not constitute grounds to stay any other  
2 34 court proceedings, or to toll or restart the time for filing  
2 35 of any posttrial motion or any appeal.

3 1 Sec. 10. Section 902.11, unnumbered paragraph 1, Code  
3 2 2003, is amended to read as follows:  
3 3 A person serving a sentence for conviction of a felony-  
3 4 ~~other than a forcible felony under section 902.12~~, who has a  
3 5 criminal record of one or more prior convictions for a  
3 6 forcible felony or a crime of a similar gravity in this or any  
3 7 other state, shall be denied parole or work release unless the  
3 8 person has served at least one-half of the maximum term of the  
3 9 defendant's sentence. However, the mandatory sentence  
3 10 provided for by this section does not apply if either of the  
3 11 following apply:  
3 12 Sec. 11. Section 902.12, unnumbered paragraph 1, Code  
3 13 2003, is amended to read as follows:  
3 14 ~~Except as otherwise provided in section 903A.2, a~~ A person  
3 15 serving a sentence for conviction of the following ~~forcible~~  
3 16 felonies shall ~~serve one hundred percent of the maximum term~~  
3 17 ~~of the person's sentence and shall not be released on be~~  
3 18 ~~denied parole or work release unless the person has served at~~  
3 19 ~~least seven-tenths of the maximum term of the person's~~  
3 20 ~~sentence:~~  
3 21 Sec. 12. Section 902.12, subsection 5, unnumbered  
3 22 paragraph 2, Code 2003, is amended to read as follows:  
3 23 ~~Except as otherwise provided in section 903A.2, a person~~  
3 24 ~~serving a sentence for conviction under~~  
3 25 6. Vehicular homicide in violation of section 707.6A,  
3 26 ~~subsection 1 or 2, shall serve one hundred percent of the~~  
3 27 ~~maximum term of the person's sentence and shall not be~~  
3 28 ~~released on parole or work release if the person was also~~  
3 29 convicted under section 321.261, subsection 3, based on the  
3 30 same facts or event that resulted in the conviction under  
3 31 section 707.6A, subsection 1 or 2.  
3 32 Sec. 13. Section 903.4, Code 2003, is amended to read as  
3 33 follows:  
3 34 903.4 PROVIDING PLACE OF CONFINEMENT.  
3 35 All persons sentenced to confinement for a period of one  
4 1 year or less shall be confined in a place to be furnished by  
4 2 the county where the conviction was had unless the person is  
4 3 presently committed to the custody of the director of the Iowa  
4 4 department of corrections, in which case the provisions of  
4 5 section 901.8 apply, ~~or unless the person is serving a~~  
4 6 ~~determinate term of confinement of one year pursuant to~~  
4 7 ~~section 902.3A.~~ All persons sentenced to confinement for a  
4 8 period of more than one year shall be committed to the custody  
4 9 of the director of the Iowa department of corrections to be  
4 10 confined in a place to be designated by the director and the  
4 11 cost of the confinement shall be borne by the state. The  
4 12 director may contract with local governmental units for the  
4 13 use of detention or correctional facilities maintained by the  
4 14 units for the confinement of such persons.  
4 15 Sec. 14. Section 905.6, Code 2003, is amended by adding  
4 16 the following new subsection:  
4 17 NEW SUBSECTION. 9. Notify the board of parole, thirty  
4 18 days prior to release, of the release from a residential  
4 19 facility operated by the district department of a person  
4 20 serving a sentence under section 902.12.  
4 21 Sec. 15. NEW SECTION. 905.11 RESIDENTIAL FACILITY  
4 22 RESIDENCY == MINIMUM. A person who is serving a sentence  
4 23 under section 902.12, the maximum term of which exceeds ten  
4 24 years, and who is released on parole or work release shall  
4 25 reside in a residential facility operated by the district  
4 26 department for a period of not less than one year.  
4 27 Sec. 16. Section 906.4, Code 2003, is amended by adding

4 28 the following new unnumbered paragraph after unnumbered  
4 29 paragraph 1:  
4 30 NEW UNNUMBERED PARAGRAPH. A person on parole or work  
4 31 release who is serving a sentence under section 902.12 shall  
4 32 begin parole or work release in a residential facility  
4 33 operated by a judicial district department of correctional  
4 34 services.  
4 35 Sec. 17. Section 907.3, subsection 1, paragraph m, Code  
5 1 2003, is amended by striking the paragraph.  
5 2 Sec. 18. Section 907.3, subsection 2, paragraph g, Code  
5 3 2003, is amended by striking the paragraph.  
5 4 Sec. 19. Section 907.3, subsection 3, paragraph g, Code  
5 5 2003, is amended by striking the paragraph.  
5 6 Sec. 20. Section 915.13, subsection 1, Code 2003, is  
5 7 amended by adding the following new paragraph:  
5 8 NEW PARAGRAPH. h. The filing of a motion to reopen a  
5 9 sentence of a defendant pursuant to section 901.5B.  
5 10 Notwithstanding section 915.10, the notice shall be served by  
5 11 certified mail. Notice shall include the scheduled date,  
5 12 time, and place of any hearing to reopen a sentence and that  
5 13 the victim has thirty days from the date of the service of the  
5 14 motion to file a written objection with the court.  
5 15 Sec. 21. Section 915.14, Code 2003, is amended to read as  
5 16 follows:  
5 17 915.14 NOTIFICATION BY CLERK OF THE DISTRICT COURT.  
5 18 The clerk of the district court shall notify a registered  
5 19 victim of all dispositional orders of the case in which the  
5 20 victim was involved and may advise the victim of any other  
5 21 orders regarding custody or confinement. If a motion to  
5 22 reopen the sentence has been filed pursuant to section 901.5B,  
5 23 the clerk of the district court shall notify a registered  
5 24 victim of the case in which the victim was involved. The  
5 25 notice shall include the scheduled date, time, and place of  
5 26 the hearing, and the clerk shall notify the victim of a  
5 27 cancellation or postponement of any hearing regarding the  
5 28 motion to reopen.  
5 29 Sec. 22. Section 902.3A, Code 2003, is repealed.  
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